

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLIFFTON DAVIS,

Defendant-Appellant.

UNPUBLISHED

April 20, 2001

No. 220546

Wayne Circuit Court

LC No. 93-007182

Before: Talbot, P.J., and Sawyer and F. L. Borchard*, JJ.

MEMORANDUM.

Defendant was convicted of second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to serve consecutive prison terms of two years for the felony-firearm conviction and fifteen to twenty years for the murder conviction. He appeals as of right, arguing that his fifteen- to twenty-year sentence violates the two-thirds rule of *People v Tanner*, 387 Mich 683; 199 NW2d 202 (1972).

Defendant is correct, and the prosecution properly concedes the error. A *Tanner* violation occurs when the minimum sentence imposed is more than two-thirds of the maximum sentence. In *People v Thomas*, 447 Mich 390, 393-394; 523 NW2d 215 (1994), the Michigan Supreme Court held that the proper remedy for a *Tanner* violation is reduction of the minimum sentence. Accordingly, we remand this case to the trial court for amendment of the judgment of sentence to reflect a minimum sentence of 160 months.

Remanded for amendment of the judgment of sentence in accordance with this opinion. We do not retain jurisdiction.

/s/ Michael J. Talbot

/s/ David H. Sawyer

/s/ Fred L. Borchard

* Circuit judge, sitting on the Court of Appeals by assignment.